### Remarks

Claims 1 and 2 have been amended. Claims 1-13 (of which claims 3-13 have been withdrawn from consideration) remain pending in this application upon entry of this amendment.

Claims 1 and 2 have been amended to correct for grammatical errors, redundancy, and punctuation. Support for these amendments can be found on page 1, lines 1-3 of the specification. No new matter has been added by way of these amendments.

The specification has been amended at page 1, line 4 to properly indicate the deposit (accession) number, date of deposit, name and address of the depository and the complete taxonomic description. No new matter has been added by way of these amendments.

# Rejections under 35 U.S.C. § 112, second paragraph

Claims 1 and 2 have been rejected under the second paragraph of 35 U.S.C. § 112, as being indefinite and for failing to particularly point out and distinctly claim the subject matter.

Claim 1 has been amended to remove the recitation of "novel", and to include the missing "and" between "antifungal" and "antibacterial". Punctuation has also been added. Support for these amendments is found on page 1, lines 1-3 of the specification.

Accordingly, Applicants submit that this rejection has been overcome and Applicant respectfully requests its withdrawal.

#### Rejections under 35 U.S.C. § 112, first paragraph

Claims 1 and 2 have been rejected under the first paragraph of 35 U.S.C. § 112, as not being enabled. The Examiner has indicated that it is unclear whether *Streptomyces* 201 is readily available to the public at the time of the invention.

Applicants submit herewith at Exhibit A a copy of the deposit receipt and a declaration by the assignee regarding the deposit at Exhibit B. It is believed that these submissions overcome the rejection of claims 1 and 2 under 35 U.S.C. §112, first paragraph. Accordingly, withdrawal of the rejection is respectfully requested.

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# Rejections under 35 U.S.C. § 102(a)

Claims 1 and 2 have been rejected under 35 U.S.C. § 102(a) as being clearly anticipated by Bordoloi et al. Specifically, the Examiner indicates that Bordoloi teaches the 2-methylheptyl isoniconitate produced by *Streptomyces* 201.

This rejection is respectfully traversed, and reconsideration is respectfully requested.

Applicant submit that the present application claims priority to Indian Patent application no. 199/DEL/2001, filed February 27, 2001. Applicant submit herewith a certified copy of the priority document in English at Exhibit C. It is clear on the face of the publication that the acceptance date was March 26, 2001, the actual publication date being subsequent to that date, likely in August based on the volume number of the publication.

Additionally, applicants submit that the Bordoloi et al. reference may be eliminated as prior art upon demonstrating that the present invention was conceived and reduced to practice prior to publication date. Applicants attach herewith a 132 Declaration in accordance with In re Katz at Exhibit D. Therefore, applicants respectfully submit that the reference is not prior art against the present application and request that the rejection be withdrawn.

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### **Conclusion**

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: July 30, 2004

Respectfully submitted,

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